

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Joseph Lung,	:	
	:	
Petitioner(s),	:	
	:	Case Number: 1:14cv149
vs.	:	
	:	Judge Susan J. Dlott
Warden, Chillicothe Correctional Institution,	:	
	:	
Respondent(s).	:	

ORDER

This matter is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge Karen L. Litkovitz. Pursuant to such reference, the Magistrate Judge reviewed the pleadings and filed with this Court on August 13, 2015 a Report and Recommendation (Doc. (Doc. 20). Subsequently, the petitioner filed objections to such Report and Recommendation (Doc. 23).

The Court has reviewed the comprehensive findings of the Magistrate Judge and considered de novo all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Recommendation should be adopted.

Accordingly, petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254 (Doc. 3) is DISMISSED with prejudice on the ground that petitioner procedurally defaulted and has waived his grounds for relief.

A certificate of appealability will not issue with respect to any of the claims for relief alleged in the petition, which this Court has concluded is barred from review on a procedural ground, because under the first prong of the applicable two-part standard enunciated in *Slack v.*

*McDaniel*, 529 U.S. 473, 484-85 (2000), “jurists of reason” will not find it debatable whether the Court is correct in its procedural ruling.

With respect to any applications by petitioner to proceed *in forma pauperis*, the Court will certify pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of any Order adopting the Report and Recommendation will not be taken in “good faith,” therefore DENYING petitioner leave to appeal *in forma pauperis* upon a showing of financial necessity. *See* Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6<sup>th</sup> Cir. 1997).

IT IS SO ORDERED.

s/Susan J. Dlott  
Judge Susan J. Dlott  
United States District Court